Appl. No. 09/921,294
Amdt. dated November 9, 2005
Reply to Office Action of August 9, 2005

PATENT

REMARKS/ARGUMENTS

Upon entry of this amendment, which amends claims 1, 14, and 19, and cancels claims 15-18 and 22-25, claims 1-14 and 19-21 will be pending. In the Office Action, claims 1-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhagavath, et al. (U.S. Patent No. 6,374,288, hereinafter "Bhagavath") in view of Chui et al. (U.S. Patent No. 6,597,689, hereinafter "Chui"). Applicants respectfully request reconsideration of the claims in view of the amendments above and remarks below.

Examiner Interview

Applicants thank the Examiner for the courtesy of the Interview conducted on October 6, 2005. During the Interview, possible claim amendments and the cited references were discussed. Specifically, the feature of performance monitoring of a physical and virtual network transport being shared by a plurality of customer networks and a physical and virtual network transport dedicated to a specific customer network specific were discussed.

Claim rejections

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhagavath in view of Chui. Applicants submit that Bhagavath and Chui, either alone or in combination, do not disclose or suggest every element of claim 1.

The amendment of claim 1 moves similar limitations from claims 15-18 into claim 1. The rejection for claims 15-16 stated that the shared physical network and dedicated physical network is disclosed in Bhagavath at col. 7, lines 66-67 and col. 8, lines 1-11. Applicants submit this is just a general description of an Ethernet network. Also, for the rejection of claims 17-18, Chui at col. 17, lines 12-28 discloses how to establish a virtual connection in an ATM network.

Claim 1, as amended, recites a shared network shared by a plurality of customer networks and a dedicated network specific a customer network. The performance data is monitored for both the shared network and the dedicated customer network. Applicants submit

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that the cited references do not disclose or suggest this type of monitoring, especially the monitoring of the dedicated customer network. The dedicated customer network includes physical and virtual elements specific to a customer network that are not shared. Bhagavath and Chui, either alone or in combination, do not disclose or suggest the monitoring of a dedicated customer network and a shared customer network. Rather, Bhagavath and Chui disclose a general description of an Ethernet network or how to establish a connection in an ATM network.

Embodiments of the present invention provide many advantages. As recited in the background on page 2 of the Specification, the flow of data may be monitored through a shared network. However, an end-to-end monitoring is not provided. Thus, the monitoring of data through a dedicated customer network provides additional monitoring and better customer service.

Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1. Claims 2-13 depend from claim 1 and thus derive patentability at least therefrom.

Applicants submit that claims 14 and 19 should be allowable for at least a similar rationale that is recited with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 14. Claims 20-21 depend from claim 19 and thus derive patentability at least therefrom.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.
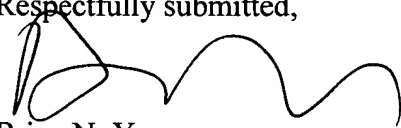
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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

Dated: 11/9/05

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